

BUDGET LETTER

SUBJECT: VACANT POSITION REESTABLISHMENTS	NUMBER: 11-14
REFERENCES: GOVERNMENT CODE SECTION 12439, CONTROL SECTION 4.11, BUDGET ACT OF 2011	DATE ISSUED: July 19, 2011
	SUPERSEDES: BL 10-18

TO: Agency Secretaries
Department Directors
Departmental Budget Officers
Departmental Accounting Officers
Department of Finance Budget Staff

FROM: DEPARTMENT OF FINANCE

Budget Officers are requested to forward a copy of the Budget Letter (BL) to Human Resources and Labor Relations Offices.

Deadlines and Deliverables	
August 15, 2011	Requests to reestablish positions by self-certification must be submitted to the State Controller's Office (SCO).
August 29, 2011	Request for Vacant Position Reestablishment forms (DF-155) due to the Department of Finance (Finance).
September 2, 2011	Finance advises agencies, departments, and other state entities of the approval or denial of the DF-155.
September 9, 2011	Approved DF-155 documents are due to the SCO.

This BL addresses the reestablishment of positions abolished pursuant to Government Code (GC) section 12439.

Reestablish Vacant Positions

GC section 12439 states that positions vacant for six or more consecutive pay periods shall be abolished on July 1 of the following fiscal year. The statute provides for the following two categories for reestablishment of positions:

1. Positions that meet the self-certification criteria under GC section 12439(c). Requests to reestablish positions by self-certification must be submitted to the SCO by August 15, 2011. Refer to GC section 12439(c) for the criteria for self-certification.
2. Positions may be reestablished upon the approval of the Director of Finance pursuant to GC section 12439(b), which states the Director of Finance may authorize the reestablishment of any positions abolished pursuant to this section if one or more of the following conditions existed during part or all of the six consecutive monthly pay periods:
 - (1) There was a hiring freeze in effect during part or all of the six consecutive pay periods.
 - (2) The department has diligently attempted to fill the position, but was unable to complete all the steps necessary to fill the position within six months.

- (3) The position has been designated as a management position for purposes of collective bargaining and has been held vacant pending the appointment of the director, or other chief executive officer of the department as part of the transition from one Governor to the succeeding Governor.
- (4) The classification of the position is determined to be hard-to-fill.
- (5) Late enactment of the budget caused the department to delay filling the position.

While departments and other state entities should immediately begin to identify which of the abolished positions meet at least one of these GC section 12439(b) criteria for consideration of reestablishment, departments should not assume that a position will be reestablished simply because it meets one of the above criteria. Every request will be considered in light of all the factors that affect its budget, including Workforce Cap reductions, and the Governor's policy to limit growth in government.

Departments and other state entities requesting a vacant position reestablishment pursuant to GC section 12439(b) must submit an original, signed DF-155 Form (Attached) to their Finance budget analyst by August 29, 2011.

This request must contain all supporting documentation, including a completed Change in Established Positions form (Std. 607). (Please note: these 607s must include an "X" before the document number in box 3b.) An electronic version of the DF-155 Form is available on the Finance website <http://www.dof.ca.gov/budgeting/forms/documents/DF-155.doc>.

All requests must be complete and provide sufficient justification for reestablishment. Please note that positions abolished under GC section 12439 are not included in the Schedule 8 (SCO's Report of Authorized Positions) and must be manually added to the Salaries and Wages (Schedule 7A) after approval by Finance.

Control Section 4.11 provides that each new position authorized in the 2011 Budget Act will be established effective July 1, 2011, unless otherwise approved by Finance. Positions must be established on July 1, 2011, if funded through the 2011 Budget Act. This section was added to the budget so departments do not inadvertently circumvent GC section 12439 by delaying formal establishment of new positions.

Form DF-155 Instructions

Departments may submit one DF-155 for multiple position reestablishments if the positions all qualify for reestablishment pursuant to the same criterion and have the same justification for reestablishment.

Request Date and Request Number: Include date of submittal and request number (e.g., 0001, 0002).

Attachments: For each DF-155, indicate whether attachments are included and enter the total number of pages, including the DF-155.

Section A: Indicate which criterion qualifies the position for reestablishment. Mark all that apply.

Section B: Provide a justification for a June 30, 2011 vacant position reestablishment.

Section C: Describe the specific consequences that will occur if the reestablishment request is denied.

Section D: Indicate the position number, classification title, and salary range for each position in which a vacant position reestablishment is requested. For requests addressing more than one position, departments must attach supporting schedules illustrating the required information for each position.

Contact Person: Provide the name and telephone number of the responsible person(s).

Section E: Departments reporting to Agency Secretaries must include the signature of both the Department Director or Cabinet-level Director and the Agency Secretary. Departments and other state entities not represented by an Agency Secretary or Cabinet-level Director must include the signature of the Department Director or other authorized designee.

Approval: Finance will review the request and notify agencies, departments, and other state entities, as appropriate, of the approval or denial of the DF-155, by Friday, September 2, 2011. Approved documents are due to the SCO by Friday, September 9, 2011.

If you have any questions regarding this BL, please contact your Finance budget analyst.

/s/ Diana L. Ducay

Diana L. Ducay
Program Budget Manager

Attachment